

Service Date: February 3, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	UTILITY DIVISION
OF MOUNTAIN WATER COMPANY for)	
Authority to Increase Rates and Charges for Water)	DOCKET NO. D2005.4.49
Service to its Missoula, Montana, Customers)	ORDER NO. 6644c

IN THE MATTER OF THE APPLICATION OF)	UTILITY DIVISION
MOUNTAIN WATER COMPANY for Authority)	
to Decrease Rates and Charges for Water Service)	DOCKET NO. D2004.9.145
to its Missoula, Montana, Customers)	ORDER NO. 6650b

FINAL ORDER

APPEARANCES

FOR THE APPLICANT:

Mountain Water Company

John Alke, Hughes, Kellner, Sullivan and Alke, 40 W. Lawrence, Suite A, P.O. Box 1166,
Helena, MT 59624-1166

FOR THE INTERVENORS:

Montana Consumer Counsel

Mary Wright, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703

City of Missoula

Jim Nugent and Susan A. Firth, City Attorney's Office, 435 Ryman, Missoula, MT 59802

BEFORE:

Doug Mood, Commissioner Presiding
Brad Molnar, Commissioner
Tom Schneider, Commissioner

COMMISSION STAFF:

Leroy Beeby, Rate Analyst
Dave Burchett, Rate Analyst
Robin A. McHugh, Attorney

INTRODUCTION

1. In these Orders the Montana Public Service Commission (Commission) 1) approves on a final basis a Mountain Water Company (Mountain or Mountain Water) annual power cost adjustment tracker filing (tracker filing), effective on an interim basis on October 1, 2004; and 2) acts on a Mountain Water Application to increase rates and charges for water service for its Missoula, Montana customers.

FINDINGS

BACKGROUND

Docket No. D2004.9.145

2. This docket is an annual power cost adjustment tracker filing submitted by Mountain Water on September 7, 2004, pursuant to tariff. The tracker filing was noticed on September 20, 2004, and the Montana Consumer Counsel (MCC) requested and was granted intervention in the docket. The rate change proposed in the tracker filing was effective on an interim basis on October 1, 2004, by operation of the tracker tariff. This docket was consolidated with Docket No. D2005.4.49 for procedural purposes and an opportunity for intervenor discovery, prefiled testimony and hearing was provided.¹

Docket No. D2005.4.49

3. This docket is a Mountain Water Application to increase rates and charges for water service to customers in and around Missoula, Montana. The Application was filed on April 8, 2005, and requested a total revenue increase of \$1,419,020. The Commission issued notice of the Application on April 15, 2005, and on May 10, 2005 Commission staff granted the timely requests for intervention from the MCC and the City of Missoula (City). Also on May 10, 2005 the

¹ Notice of Consolidation of Dockets, Notice of Opportunity for Public Hearing, Notice of Commission Action on Motion for Interim Rate Order, and Procedural Order, Docket No. D2004.9.145, Order No. 6650, Docket No. D2005.4.49, Order No. 6644, May 26, 2005.

Commission denied Mountain Water's request for interim rate relief within 30 days of filing, but promised to revisit the request for interim relief on receipt of intervenor testimony.

4. On May 26, 2005 the Commission issued Procedural Order No. 6644 in this docket.² The Procedural Order and Schedule were typical of Commission practice, except that the Commission on its own motion, noting a possible oversight, provided Mountain Water an opportunity to supplement its Application to request an extension of the power cost adjustment tracker tariff. In response Mountain supplemented its Application on June 10, 2005 through the supplemental testimony of John A. Kappes.

5. On July 15, 2005 Mountain Water filed a motion for protective order covering certain tax and employee salary information. The City objected to protection of the salary information. The Commission granted the motion and issued the Protective Order on August 19, 2005.³

6. The Procedural Order in this docket contained a July 29, 2005 deadline for intervenor testimony, later extended by staff action to August 5, 2005.⁴ Prior to August 5, 2005 Mountain Water and MCC reached an agreement in principle on a Stipulation to settle the disputed issues between them. (Details of the Stipulation are described below.) Mountain Water and the City did not reach agreement and the City filed intervenor testimony pursuant to the amended schedule. On September 1, 2005 Mountain Water and MCC filed a Stipulation of their disputed issues, and Mountain Water also filed on that date a Motion for Interim Rate Relief. On September 12, 2005 the Commission issued Interim Order No. 6644b in this docket, authorizing an increase in rates designed to recover an additional \$667,118 in annual revenue. No interim increase was granted for fire protection service rates and revenues, pending hearing and final disposition of the fire protection issue raised by the City. (That issue is fully described below.)

7. Notice of Public Hearing in this docket was issued on September 22, 2005.⁵ The Notice stated that the hearing would be 1) for Mountain Water and the City to present their cases on the remaining contested issue involving public fire protection; 2) for Mountain Water and the MCC to present their Stipulation on all other issues raised by the Application; and 3) for members of the

² See fn. 1.

³ See Protective Order No. 6644a, Docket No. D2005.4.49, and No. 6650a, Docket No. D2004.9.145, which explains the Commission's reasons for issuing the Order and rejecting the objections of the City.

⁴ See Notice of Staff Action, August 4, 2005.

⁵ No discovery was conducted nor intervenor testimony filed in Docket No. D2004.9.145; therefore, no issue was presented for hearing in that docket.

Public to comment on the Application, the Stipulation, and the remaining contested issue. A Hearing was held in this docket in Missoula on October 12, 2005. Initial briefs were filed by

Mountain Water and the City on November 18, 2005; reply briefs were filed on November 30, 2005.

The Record in Docket No. D2005.4.49

8. The evidentiary record in this docket consists of the following:
 - (a) Mountain Exhibit 1 - April 8, 2005 Application, including financial statements conforming to the Commission's minimum filing requirements (TR 11-12);
 - (b) Mountain Exhibit 2 - Stipulation between Mountain and the MCC, filed with the Commission on September 1, 2005 (TR 96);
 - (c) Mountain Exhibit 3 - Prefiled direct testimony and exhibits of Leigh Jordan (TR 96);
 - (d) Mountain Exhibit 4 - Prefiled direct testimony of Ed Jackson (TR 96);
 - (e) Mountain Exhibit 5 - Prefiled direct testimony of Arvid Hiller (TR 97);
 - (f) Mountain Exhibit 6 - Prefiled direct testimony of John Kappes (TR 103);
 - (g) Mountain Exhibit 7 - Prefiled rebuttal testimony of John Kappes (TR 66);
 - (h) Mountain Exhibit 8 - Prefiled supplemental direct testimony of John Kappes (TR 66);
 - (i) City Exhibit 1 - Prefiled direct testimony and exhibits of Cornelius (Kees) Corssmit (TR 13);
 - (j) City Exhibit 2 - Supplement to the resume of Dr. Corssmit (TR 32);
 - (k) All data requests and responses to data requests filed in Docket Nos. D2004.9.145 and D2005.4.49 (TR 110);
 - (l) Transcript of proceedings beginning at 2:00 p.m., October 12, 2005; transcript of proceedings beginning at 7:00 p.m., October 12, 2005.

Public Witnesses

9. Jeffrey Halvorson appeared and urged the Commission to lower the flat rate for Mountain Water Service. (TR 92) Brentt Ramharter appeared and urged the Commission to find in favor of the City on the public fire protection issue. (TR 13 - 7:00 p.m. public hearing)

THE STIPULATION

10. As noted, Mountain Water initially requested a \$1,419,020 increase in annual revenues. In their Stipulation Mountain Water and MCC agreed to an increase in annual revenues of \$836,185, or \$583,835 less than the increase originally requested. The stipulated revenue requirement contained a projection of cost of living adjustment labor costs, painting costs and property taxes through the end of 2005; and the parties agreed that those projections would be adjusted to reflect actual 2005 costs.

11. In the Stipulation MCC and Mountain Water also agreed that Mountain should be authorized on a final basis to adjust its rates to reflect the annual power cost tracker adjustment, effective on an interim basis on October 1, 2004 in Docket No. D2004.9.145. Additionally, the parties agreed that Mountain Water's power cost tracker should be changed to include a "de minimus" provision,⁶ and that the tracker mechanism should be authorized at least until the Commission issues a final order in the next Mountain general rate case, anticipated to be filed sometime in 2007.

12. The City is not a party to the Stipulation, but did not object to it or advocate on any issue covered by the Stipulation.

THE PUBLIC FIRE PROTECTION ISSUE

13. The City, which needs fire protection service from Mountain throughout Missoula, contends that: 1) the City should not be charged for the service, and; 2) Mountain has incorrectly allocated costs to public fire protection.

14. The City presents its position through the pre-filed testimony of Kees W. Corssmit. Dr. Corssmit argues that 1) the City is not a direct user of Mountain's fire hydrants or its capacity to provide fire protection, and 2) the fire hydrant charges are not based on an acceptable allocated cost-of-service methodology.⁷

Charging For Fire Protection

15. The City says it is, "significantly directly financially adversely affected by Mountain Water company's water rate fire hydrant assessments and its fire hydrant assessment formula."⁸ The

⁶ This provision would allow Mountain to defer small power cost adjustments until the next annual tracker filing; a carrying charge would accrue on the deferred amount.

⁷ Corssmit testimony, p. 7.

⁸ City opening brief, p. 2.

City states the current rate design used by Mountain for fire protection is a hardship for the City because it must utilize property tax revenues to pay Mountain's fire hydrant charges. The City argues that those charges should be assessed to the real beneficiaries of the fire protection: the property owners.⁹ The City states it is merely the conduit through which the water is connected to the fire hose and then sprayed on the property.¹⁰

16. Mountain disagrees that the City is only a conduit, not a cost causer. Mountain states that the City is one of the biggest, if not the biggest, cost causers on the Mountain system.¹¹ Mountain says it is the City fire department which dictates to Mountain the fire flows it wants designed, and that City responsibility for the costs of the fire flow and the hydrants is the only practical control on the City's demands.¹²

17. The City is anticipating an additional 100 fire hydrants before the fiscal year end on June 30, 2006.¹³ At \$400.00 per hydrant that is an additional \$40,000, plus the water rate increase to the existing hydrants. Because the City is required to pay for these hydrants rather than the property owners, the City contends it cannot recoup these added costs from its tax base.¹⁴

18. Mountain rebuts the City's argument; it states that charges for water service are only a small part of total fire department costs. The total fire department budget for 2006 is 8.1 million dollars, of which \$428,511 is budgeted for fire protection costs. The 8.1 million dollars is funded through property taxes. Mountain also notes that the City provides fire protection to properties that use wells and are not Mountain customers. Mountain contends that under the City's proposal these properties would receive free fire protection, just as tax exempt properties currently receive free protection.¹⁵

19. Dr. Corssmit's argument that the City cannot afford to pay for public fire protection is challenged by Mountain. Mountain states that when, through discovery, the City was asked to provide documents relied upon, it could not provide them.¹⁶

Mountain's Allocation Formula

⁹ Id.

¹⁰ TR 14.

¹¹ Mountain opening brief, p. 7.

¹² Id.

¹³ City opening brief, p. 4.

¹⁴ Id.

¹⁵ Mountain opening brief, p. 8.

20. The City argues that Mountain's current allocation formula "unjustly and unreasonably causes an adverse fiscal impact on the city for fire hydrant assessments."¹⁷ The City claims that

state law prevents it from raising revenue through property taxes at a rate sufficient to cover the increasing costs of fire hydrants.

21. The City argues that Mountain's formula is out of date, and most of the country is moving to a cost-of-service basis. In Missoula, tax exempt users are not charged at all, and the City asserts that government or church properties should not be exempt from fire flow costs.¹⁸ The City recommends the ratemaking guidelines set forth in the American Water Works Association, Manual No. 1 or AWWA M1 Manual. Mountain uses the National Association of Regulatory Utility Commissioners guidelines, which the City argues are only accounting guidelines, not ratemaking guidelines.¹⁹ Dr. Corssmit argues that cost-of-service ratemaking is better than the current proposed fire hydrant rate method because it greatly improves the alignment of the fire protection services provided by Mountain with the actual recipients of these services, the property owners.²⁰ Dr. Corssmit states Mountain needs to develop a proper cost-of-service study. He states that existing rates could remain in place until the study is completed, giving Mountain an incentive to get the study done in a timely manner.

22. Mountain responds that it has used this same allocation methodology for the last twenty four years.²¹ It changed the capacity equivalent from 8 to 9.2 hydrants only because the capacity equivalency had fallen significantly below actual direct costs.²² At hearing, Mountain witness John Kappes stated that the current formula shows a reasonable cost allocated for fire protection, which is a principle of cost of service.²³ Mountain points out that the Commission has rejected the Base/Extra Capacity cost allocation methodology system as being too complex,²⁴ and states that because it has a large number of flat rate customers it does not classify customers in a way that is amenable to the Base/Extra-Capacity cost allocation methodology. Mountain states that Dr.

¹⁶ Id.

¹⁷ City opening brief, p. 3.

¹⁸ Id. at 6-7.

¹⁹ City reply brief, p. 5.

²⁰ Prefiled testimony, p. 10.

²¹ Mountain opening brief, p. 8.

²² Id. at 9.

²³ TR 73.

²⁴ See Docket No. 6546, Order No. 4471b.

Corssmit indicated it was reasonable for Mountain to charge the City for the direct costs of fire hydrants. Mountain contends that if it were to charge direct costs the City would pay approximately \$59,000 more for public fire protection than it does under the current ratemaking method.²⁵

Charging Developers for Fire Hydrants

23. The City proposes requiring developers to pay for the cost of fire hydrants. Through Dr. Corssmit's prefiled testimony the City proposes that fire hydrants and associated assets be deeded over to Mountain, and those transfers be considered Contributions. Under the Contribution scenario Mountain would not be entitled to collect depreciation and a return on those assets. Dr. Corssmit asserts that "the net effect is that these assets would not be included in the rate base that underlies the capital cost portion of the user charges."²⁶ He concludes that because Mountain can not make a profit on contributed items there would be no incentive for Mountain to embrace this concept.²⁷

24. Mountain would prefer to have the developer advance the cost of new hydrants under Mountain's main extension tariffs. John Kappes, in his rebuttal testimony, states that hydrants should be handled as an advance instead of a contribution. The difference, he says, is that with an advance the developer would be refunded, over a period of 40 years, the principle paid for the infrastructure.²⁸ Mr. Kappes refutes Dr. Corssmit's statement that there is no incentive for Mountain to prefer a contribution because Mountain can not make a profit. He says Mountain will not make a profit off an advance either, but prefers advances over contributions for two reasons: (1) by treating fire hydrants the same as main extensions Mountain would only have to administer one contract, and (2) under a contribution a developer would not receive any refund.

DISCUSSION AND DECISIONS

Public Fire Protection

25. The City's primary argument for shifting fire flow costs from it to Mountain Water customers is that the City "is not the beneficiary or cost causer for fire protection water services." ²⁹ Further, the City claims, "[p]roperties protected by fire protection water flow capability are the

²⁵ Mountain opening brief, p. 10.

²⁶ Corssmit's testimony, p. 12.

²⁷ Id.

²⁸ Kappes rebuttal testimony, p. 16.

actual service recipients. They should be billed by [Mountain Water]."³⁰ The City also contends that fire flow cost responsibility should be shifted because 1) state law constrains the City's ability to recover fire flow costs, and 2) owners of tax-exempt properties that benefit from City fire protection avoid paying for fire flow costs.

26. The Commission is not persuaded by the City's arguments to approve a shift in cost responsibility. First, the Commission finds the City overstates its case on the question of who should be considered the proper customer for fire flow service. Clearly, all customers and property owners within the City are the beneficiaries of Mountain's fire flow service. But, just as clearly, the City is also a beneficiary of fire flow service. Fire flow service is an ingredient in the total package of fire protection service; and fire protection service is a fundamental City responsibility. Fire flow cost responsibility cannot be determined simply by finding the beneficiaries of fire flow service, because both the City and its inhabitants are beneficiaries.

27. Second, the City's contention that state law makes Mountain Water fire flow service unaffordable, is, respectfully, irrelevant. This case is about establishing just and reasonable rates for Mountain Water, not ameliorating City budget difficulties. Following the City's argument, state law undoubtedly constrains the City's ability to pay for a myriad of services, not just fire flows. In any event, the remedy for the problem, if it is a problem, is at the Legislature, not the Commission.

28. Third, the City is correct that the current assignment of cost responsibility for fire flows creates an obvious inequity: property taxpayers who benefit from fire flow service pay for it; property owners exempt from property taxes who benefit from the service, generally do not pay for it. This inequity by itself may not justify a shift in cost responsibility. Such inequities are common in the provision of municipal services - indeed the Commission assumes the totality of City fire service costs (equipment, labor, etc.) suffers from the same inequity related to property tax exemptions.

29. Although the City's arguments are not persuasive, its advocacy in this case exposes an inequity that violates one of the cardinal principles of utility ratemaking: that the burden of meeting total revenue requirements must be distributed reasonably fairly and equitably among customers (service beneficiaries).³¹ In this case the particular circumstances of state law (tax exempt properties), the fact of the provision of fire flow water service by a regulated public utility (not a

²⁹ City Opening Brief, p.2.

³⁰ Id.

³¹ See Prefiled Rebuttal Testimony of John Kappes, pp. 10-11; and also Bonbright, Danielsens, and Kamerchen, Principles of Public Utility Rates (1988, 2nd Ed.), Ch. 16, pp. 382-87.

municipal water utility), and the existing assignment of cost responsibility for fire flows on the City, combine to create an obvious inequity in the revenue requirement burden.

30. All customers of a utility are responsible for an equitable share of utility system costs. Water utility system design and facilities appropriately include fire hydrants and fire flow design requirements. The existing cost recovery and rate design has a serious flaw in that certain of these utility system costs and rates are assigned to the City rather than directly to all utility customers. The City then recovers these system costs from only a subset of Mountain customers. The resulting rate inequity is likely more acute in communities with private water systems, and which include significant tax exempt property. The Commission finds that shifting the fire flow revenue requirement recovery to all utility customers conforms more closely to the ratemaking principle described above than does the current method of revenue recovery.

31. The fact of the inequity, which is not large relative to the total Mountain revenue requirement, would not justify a cost responsibility shift in the face of persuasive contrary considerations. The Commission does not find such considerations in this case. The inertia of the status quo is of negligible importance in this instance; the fact that there are property owners who are not Mountain customers creates a balancing of the equities issue with respect to fire flow responsibility (that the Commission strongly suspects would resolve in favor of making tax-exempt property owners responsible for fire flow costs), but is not relevant to a revenue requirements inequity because only Mountain customers are responsible for Mountain revenue requirements; and the suggestion that shifting fire flow cost responsibility will reduce City incentive to control fire flow costs is a public accountability issue for the City and its residents.

32. The Record is not adequate to establish the most equitable method for collecting fire flow system costs directly from Mountain customers. Therefore, an implementation framework is established at paragraph 44 below.

33. The second issue raised by the City is the proper calculation of the cost of public fire flow service. The City's advocacy is sometimes confusing - intimating that there is a connection between this issue and the question of who should be charged for the public fire flow service.³² The two issues are distinct, as recognized by the City's witness, Dr. Corssmit:

[T]here are two reasons for the [City's] complaint. One of them is the fire rate design,

³² Mountain opening brief, passim.

which is I think what you are referring to. But the No. 2 reason is also that the way in which the fire-hydrant charges were calculated does not reflect an acceptable cost-of-service-based methodology.³³

Further, Dr Corssmit states:

What the city is proposing is that the company does calculate fire flow cost within the system, whatever those are, and we are not disputing that it could not be \$480,000 or 430-something-thousand dollars. It is what it is. At that point, the cost, you know, is established.³⁴

Therefore, in simple terms, the City first asks: who should pay? Second, it asks: how much?

34. The Commission will not on this record order a change to the current Mountain Water cost of service methodology, either with respect to fire flow costs, or other water service costs. This record contains only one allocated cost-of-service study, presented by Mountain in its Application and explained and defended in detail, both generally and with respect to fire flows, by Mr. Kappes.³⁵ The City criticized Mountain's cost-of-service methodology, but did not conduct a cost-of -service study itself using what it considers a preferable methodology. Rather, the City proposed that the Commission order Mountain Water to conduct a study using the City's favored methodology. As noted, the Commission will not issue such an order at this time. If this issue remains of concern to the City it can conduct its own study as part of its advocacy in a future Mountain rate case.

35. While the Commission does not here order a change to the current Mountain Water allocated cost-of -service methodology, the City's participation in this docket casts light on that methodology and raises the question whether changes should be made within the next several years. In a previous Order the Commission addressed a cost-of-service/rate design proposal presented by the Montana Power Company, the owner of the Missoula water system prior to Mountain Water.³⁶ As described in that Order Montana Power proposed rates based on a cost-of -service study performed pursuant to a "base-extra capacity method." The study was performed by a consulting engineering firm, and the rates proposed as a result of the study resulted in "wide differentials among percentage increases proposed for the various customer classes."³⁷

36. The Commission substantially rejected the rates proposed as a result of the Montana

³³ TR 39

³⁴ TR 52

³⁵ Kappes rebuttal testimony, pp. 8-16.

³⁶ Docket No 6546, Order No. 4417b, pp. 18-25 (July 28, 1978).

³⁷ Order No. 4417b, p.19

Power study; however, it recognized that the intent of the study was to further legitimate ratemaking principles. The basic problem with the study was that the Missoula system at the time was largely (close to 80%) unmetered, meaning there was too little hard consumption data on which to base the study's conclusions. The Commission found:

The cost of service study performed by HDR was more detailed or sophisticated in its methodology than appears justified by the scant water use data available. The assignment of cost responsibility to the various customer classes based on estimated water use data and estimated extra-capacity demand characteristics, as discussed previously, necessarily produces inexact and questionable results. The Commission and staff are seriously handicapped in the analysis of a cost study so heavily based on engineering judgment and information from similar communities in the Rocky Mountain area.³⁸

The Commission also found:

The Commission recognizes that until universal metering is achieved on the Missoula system equity questions on rate design between and within the various customer class will not be resolved. The goals of [the engineering consultant and Montana Power] to establish equitable cost based rates and to encourage water conservation through the resulting cost based price signals are appropriate. However, the rigid methodology, based upon scant water use data, has resulted in proposed rates to various unmetered customer classes which are unreasonable under the circumstances.³⁹

37. Importantly, the Commission specifically endorsed the goal of fully metering the Missoula system, in order to be able to achieve equitable, cost-based rates:

The Commission strongly recommends implementation of an aggressive universal metering program for the Missoula system. It is impossible to construct an equitable cost-based rate structure at present due to the paucity of actual consumption data available. As flat-rate customers are moved to the metered schedule with MPC's proposed metering program, more information will be available to the utility on the usage characteristics of its Missoula customers. The ability to assign costs on the basis of customer responsibility is a commendable goal; when metering is more extensive in Missoula, the Company will be more nearly able to reach the goal. In addition, the customer will be able to influence his bill through conservation efforts.⁴⁰

38. In 1979 the Park Water Company, the parent of the Mountain Water Company, bought the Missoula water system from the Montana Power Company. In 1981 Mountain Water as part of

³⁸ Id. at 20-21.

³⁹ Id. at 22.

⁴⁰ Id. at 25.

its first general rate case application to the Commission prepared an allocated cost-of-service study.⁴¹

The study was accepted by the Commission,⁴² and has been used as the basis for Mountain rates ever since. Mountain supports the methodology and continued use of the 1981 study as follows:

The methodology provides a reasonable cost allocation method for a system that is not fully metered. MWC has only one classification of metered customer for its tariffs and does not break out costs by metered customer type. (E.g. Residential, Commercial, Industrial, Public Authority, Irrigation) MWC recommends continuing to use this type of cost allocation methodology and a single tariff structure. MWC does not feel there is a need for separating the metered customers into different classifications at this time.

Using the current methodology maintains rate stability by avoiding cost shifts and avoiding the creation of winners and losers.⁴³

39. Mountain Water may be correct that the existing cost allocation method is most reasonable for a system that "is not fully metered." This however begs the questions: 1) What did the Commission mean when it encouraged moving aggressively to a fully metered system in Order No. 4417b? and 2) Has Mountain's response been reasonable and sufficient?

40. The engineering consulting firm that conducted the water rate study for Montana Power recommended that the Missoula system "achieve universal metering of customers...over a period of five years."⁴⁴ Although the Commission did not specifically endorse the five year period, it did, as noted, recommend in 1978 that there be "implementation of an aggressive universal metering program for the Missoula system." Mountain has made progress toward universal metering since 1978 - moving from a system approximately 20% metered to a system approximately 70% metered. However, at this rate it could take several more decades to fully meter the system, or approximately 50 years after the initial recommendation. This pace cannot reasonably be described as aggressive; and in light of the importance of metering to the development of rates that conform to important ratemaking principles, it must be greatly accelerated.

Stipulation

41. The Commission has reviewed the Stipulation of issues between Mountain and MCC, and has listened to the explanation of the Stipulation by those parties at hearing. No party objected

⁴¹ The study is explained in the rebuttal testimony of John Kappes, pp. 8-12.

⁴² Docket No. 81.9.86, Order No. 4851a, p.9 (June 23, 1982))

⁴³ Kappes rebuttal testimony, p. 12.

to the Stipulation. The Commission accepts and approves the Stipulation as a reasonable settlement of the issues addressed.

Paying for Fire Hydrants

42. The Commission finds that requiring developers to advance the cost of fire hydrants is reasonable. This is the method used by Mountain to pay for main extensions. Mountain should file the necessary tariff modifications for Commission review and approval.

Implementation

43. The Commission directs Mountain to file in this docket, within 60 days of the service date of the Order, testimony containing the following: 1) an explanation, quantification and description of the current status of metering on the Mountain system; 2) an explanation, quantification and description of the progress of metering the Mountain system from 1978 to the present; 3) a proposal and plan for a significant acceleration in the pace of metering installation, with the objective of universal metering in five years; 4) other relevant discussion that Mountain chooses to bring to the Commission's attention.

44. In addition, the Commission directs Mountain to file in this docket, within 60 days of the service date of this Order, testimony containing Mountain's proposal for fairly charging Mountain customers directly for public fire protection. In developing its proposal Mountain may want to consider the suggestions of the City in this docket, decisions of the Wisconsin Public Service Commission (104 PUR 4th 302) and the Iowa Utilities Board (118 PUR 4th 488), rules and decisions of the California Public Utilities Commission, or any other decisions, rules, articles, or documents that might provide useful guidance. Also, Mountain should tailor its proposal to principles of ratemaking and the particular circumstances of its system.

45. On receipt of these filings, which may be made as part of a single document and should be served on the parties to Docket No. D2005.4.49, there will be an opportunity for discovery and response according to a procedural schedule to be developed.

CONCLUSIONS OF LAW

1. Mountain Water Company is a public utility furnishing water service to customers in the

⁴⁴ Order No. 4417b, p. 19.

Missoula, Montana area. As such, it is subject to the supervision, regulation and control of the Commission pursuant to Title 69, Chapter 3, MCA.

2. The Commission has provided adequate public notice and an opportunity to be heard as required by § 69-3-303, MCA, and Title 2, Chapter 4, MCA.

3. The rates and rate structure approved in this order are just and reasonable. § § 69-3-201 and 69-3-330, MCA.

ORDER

Now Therefore It Is Ordered:

1. The Mountain Water rate change filing approved on an interim basis on October 1, 2004, an annual power cost tracker adjustment, is approved on a final basis and Docket No. D2004.9.145 is closed.

2. Mountain Water's annual power cost tracker adjustment tariff may be modified to include a "de minimus" provision as described at paragraph 11 of this Order.

3. Mountain Water's annual power cost tracker adjustment tariff is approved until the effective date of the final order in the next Mountain general rate case. If Mountain wants approval of that tariff beyond that date it should include a request and justification for such approval in its next general rate case filing.

4. Mountain Water should file a new tariff, or modify its existing main extension tariff, to indicate that developers are responsible for advancing the cost of fire hydrants, consistent with the method Mountain Water proposed in this docket.

5. The Stipulation between Mountain Water and the Montana Consumer Counsel, and the revenue requirement agreed to therein, is approved on a final basis, and Mountain should file tariffs consistent with that approval, including any adjustments agreed to by the parties in the Stipulation or on the record in this docket. These tariffs should continue the fire flow charge to the City of Missoula, subject to revision on a prospective basis, as described below.

6. The City's proposal to shift fire flow cost recovery from the City to Mountain Water customers is approved, effective at a time and with a rate design to be determined following implementation as described at paragraphs 44 and 45 of this Order.

7. Mountain is directed to make a filing on system metering as described at paragraph 43 of this Order.

8. Docket No. D2005.4.49 remains open for the purposes of receiving, processing and acting on the filings described at paragraphs 43-45. The City and the MCC remain parties to this docket.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DOUG MOOD, Commissioner Presiding

BRAD MOLNAR, Vice Chairman

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.